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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,377	11/28/2000	Paul M.J. Schulze-Lefert	620-125	5106

23117 7590 06/02/2003
NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

EXAMINER

IBRAHIM, MEDINA AHMED

ART UNIT	PAPER NUMBER
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1638

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DATE MAILED: 06/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/722,377

Applicant(s)
Schultze-lefert

Examiner
Medina Ibrahim

Art Unit
1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 20, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 74, 75, and 78-85 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 74, 75, 78, and 83-85 is/are allowed.
- 6) ☒ Claim(s) 79-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

DETAILED ACTION

Applicant's response filed 03/20/03 in reply to the Office action mailed 09/20/02 and amendment D have been entered. Claims 74-75 and 78-85 are pending and are under examination.

This Office action contains NEW GROUNDS OF REJECTION not necessitated by Applicants' amendments. Therefore, this action is non-final. The delay in applying these new grounds of rejection is regretted.

All previous rejections and objections not stated below have been withdrawn.

Claim Objections

Claims 79 and 81 are objected to failing to further limit parent claim 74. The claims also recite improper multiple dependency because claim 74 is recited twice.

Claim Rejections - 35 USC § 112

1. Claims 79-82 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 79 and 81, depending from claim 74, are indefinite because polynucleotides of about 600 and 300 contiguous bases, respectively, cannot encode SEQ ID NO:1 (a polypeptide with 533 amino acids). Also, the recitation "at least about" renders the claims indefinite because it is unclear if Applicant intends "at least 600" or "about 600". Note "about 600" can include less than 600. Dependent claim 80 is included in the rejection.

Claim 82 is indefinite because "the regulatory sequence" lack antecedent basis.

Replacement of "claim 74" with ---claim 78---, will obviate this rejection.

Remarks

Claims 74-75 and 78-85 are free of the prior art of record.

Claim 74-75, 78, 83-85 are allowed.

Claim 82 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Papers relating to this application may be submitted to Technology Sector 1 by facsimile transmission. Papers should be faxed to Crystal Mall 1, Art Unit 1638, using fax number (703) 308-4242. All Technology Sector 1 fax machines are available to receive transmissions 24 hrs/day, 7 days/wk. Please note that the faxing of such papers must conform with the Notice published in the Official Gazette, 1096 OG 30, (November 15, 1989).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Medina A. Ibrahim whose telephone number is (703) 306-5822. The Examiner can normally be reached Monday -Tuesday from 8:00 AM to 5:00 PM and Wednesday-Thursday from 9:00AM to 3:00PM

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Paula Hutzell, can be reached at (703) 308-4310.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0196.

May 29, 2003

mai


ELIZABETH F. McELWAIN
PRIMARY EXAMINER
GROUP 1800